

VZCZCXRO0627

PP RUEHAG RUEHAST RUEHDA RUEHDBU RUEHDF RUEHFL RUEHIK RUEHKW RUEHLA
RUEHLN RUEHLZ RUEHROV RUEHSR RUEHVK RUEHYG
DE RUEHPG #1375/01 3101305
ZNR UUUUU ZZH
P 061305Z NOV 06
FM AMEMBASSY PRAGUE
TO RUEHC/SECSTATE WASHDC PRIORITY 8186
INFO RUEHZL/EUROPEAN POLITICAL COLLECTIVE PRIORITY
RUCPDO/DEPT OF COMMERCE WASHDC PRIORITY

UNCLAS SECTION 01 OF 02 PRAGUE 001375

SIPDIS

SENSITIVE
SIPDIS

E.O. 12958: N/A

TAGS: [PGOV](#) [PREL](#) [ENRG](#) [EPET](#) [ECON](#) [EZ](#)

SUBJECT: CZECH REPUBLIC: AMBASSADOR'S INTRODUCTORY CALL ON
ANTI-MONOPOLY OFFICE CHAIRMAN PECINA

REF: PRAGUE 256

¶1. (SBU) Summary: During the Ambassador's introductory call on Antimonopoly Office Chairman Martin Pecina on October 25, Pecina discussed antitrust issues, energy independence and the government tender review process. Pecina remains worried about EU dependence on Russian energy and monopolies within the Czech economy in the energy industry. He also explained that his office is frequently dragged into legal disputes involving large government tenders and listed the Kapsch toll road tender as an example. End summary.

¶2. (U) During his first visit to the Czech Republic, second largest city, Brno, on October 25, Ambassador Graber had lunch with Martin Pecina, Chairman of the Office for the Protection of Competition.

¶3. (SBU) By way of introduction, Pecina relayed that by law his office must approve any government tender over 2 million crowns (\$91,000). He stated that in the area of large government tenders he felt that the process worked well but Pecina worried that government corruption and favoritism was a larger problem with small and medium-sized tenders. He explained that local and sometimes central government officials try to circumvent the requirement for his office's review by breaking one big tender into several smaller ones.

¶4. (SBU) Pecina complained that the legislative mandate for his office remains deficient. For instance, his office has no legal authority to void signed contracts. If his office discovers errors or tenders that were less than transparent in the bidding stage, he can merely fine the company and government agency that signed the contract and issue a statement stating that the law was broken. In the review process, Pecina's deputies have 30 days to review the larger government contracts and issue a decision; if any side disputes the results they can appeal directly to Pecina wherein the 30-day review clock is restarted. He noted that both EU regulations and Czech laws govern the decision-making process.

¶5. (SBU) Pecina explained that his greatest concerns in the anti-trust area relates to single-company monopolies in the fields of natural gas, electricity, telecommunications and water. As an example, he complained that the government sold natural gas distribution rights to one German company, RWE Transgas, and that this has raised large anti-trust concerns.

RWE Transgas controls 83 percent of the Czech market in natural gas distribution and 100 percent of the market in natural gas purchase and transit (reftel). Pecina stated that his office had recently fined RWE Transgas 370 million crowns (\$17 million) for abuse of its dominant market position but that the company merely views these fines as a cost of doing business and is still making huge profits in the Czech Republic.

16. (SBU) On the issue of overall Czech energy dependence on Russia, Pecina spoke of his prior experience as Deputy Minister for Industry and Trade. In this capacity he was the government's point person on energy issues. He joked about having to travel every three months to Russia in this capacity to begin for stable energy supplies. Pecina explained that without the growth of nuclear power, EU states would be a slave to Russia's energy reserves for the long-term future. He asserted that by 2030, without diversification, the EU would be dependant on Russia for 70 percent of its natural gas and oil. Currently, 40 percent of Czech's electricity generation capacity is from nuclear power and 55 percent is from coal.

17. (SBU) As an example of how the overall anti-trust system works, Pecina gave the recent high-profile example of the tender to build an electronic toll system that was won by the Austrian company Kapsch TrafficCom. The value of the implementation and operation of the tender over the next 10 years is close to \$1 billion. At the close of the bid phase, the Ministry of Transport dismissed the Italian firm Autostrade's offer because it was incomplete, according to Pecina. Autostrade disputed the Transport Ministry's decision and filed an appeal with Pecina's office at the end of last year. In January, the Office for the Protection of Competition confirmed the results of the tender and ruled that no laws had been broken. At that point, Autostrade appealed to the European Commission and in March the Office for the Protection of Competition reconfirmed its earlier decision. Autostrade then sued the Czech Government in March in Regional Court in Brno. On October 17, the Regional Court sided with government saying that Autostrade's allegations were groundless. Pecina said it was gratifying to have his office's decisions upheld in court.

PRAGUE 00001375 002 OF 002

GRABER